

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

**DONA M. GALLOWAY**  
Claimant

VS.

**U.S.D. 497**

Self-Insured Respondent

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Docket No. 1,008,994

**ORDER**

**STATEMENT OF THE CASE**

Respondent requested review of the February 2, 2009, Award entered by Administrative Law Judge Brad E. Avery. The Board heard oral argument on May 20, 2009. Stephanie J. Wilson, of Lawrence, Kansas, appeared for claimant. Kip A. Kubin, of Kansas City, Missouri, appeared for the self-insured respondent.

The Administrative Law Judge (ALJ) adopted the assessment of Dr. Lynn Ketchum and found that claimant had a 25 percent permanent partial impairment to her right upper extremity. The ALJ found Dr. Ketchum's opinion to be the most credible in part because it was the only report that listed a date of accident of November 6, 2002.

The Board has considered the record and adopted the stipulations listed in the Award. The record also contains the transcript of the Motion Hearing held June 3, 2008.

**ISSUES**

Respondent requests the Board review the issue of the nature and extent of claimant's disability. Respondent argues that the ALJ should not have considered the court ordered independent medical examination (IME) reports of Dr. Mary Ann Hoffmann and Dr. Lynn Ketchum without requiring deposition testimony from them. Respondent contends that K.S.A. 44-510e, the statute allowing an ALJ to order an IME, does not apply in cases where the only injury is a scheduled injury. Further, respondent notes that K.S.A. 44-510d, the statute relating to scheduled injuries, does not have a provision allowing the court to order an IME. Respondent also contends that K.S.A. 44-516 provides no basis for the examinations by Drs. Hoffmann and Ketchum because there was no dispute as to

whether claimant had an injury. Next, respondent argues that Dr. Ketchum was only appointed to assess whether claimant was in need of additional medical treatment, not to provide an impairment rating.

If the Board finds that the ALJ was allowed to consider the IME report of Dr. Ketchum, respondent argues that Dr. Ketchum's report was flawed because claimant gave an incorrect medical history and because Dr. Ketchum did not see claimant until more than five years after the accident, after she had intervening injuries and subsequent employment that aggravated her condition. Last, respondent contends the ALJ erred in adopting the medical report of Dr. Ketchum for the reason that he had the date of accident listed as November 6, 2002, and in disregarding the medical opinions of the other doctors, when all the doctors' reports refer to the same incident.

Claimant requests the award of the ALJ should be affirmed. Claimant contends the ALJ had the authority to consider the IME report of Dr. Ketchum under K.S.A. 44-510e, K.S.A. 44-516, and K.A.R. 51-9-6. Claimant also requests that the Board order respondent to provide claimant with the treatment recommended by Dr. Ketchum.

The issues for the Board's review are:

- (1) What is the nature and extent of claimant's impairment?
- (2) Did the ALJ have the authority to consider the IME reports of Drs. Ketchum and Hoffmann in determining the percentage of claimant's permanent partial disability?

#### **FINDINGS OF FACT**

Claimant worked for respondent as a paraprofessional, working with autistic children. She testified that on November 6, 2002, she was helping a teacher restrain a student who was having a behavioral problem. In the process, claimant's right arm was twisted and she felt a sharp pain in her forearm just below the elbow. She said the next day she began to experience numbness and tingling in her right hand, specifically in her three middle fingers. She testified that she had not been experiencing any pain with respect to her right elbow, forearm, wrist or hand before her injury of November 6, 2002.

Claimant moved to Kansas from Virginia in 2001. Sometime before she moved, she had bilateral carpal tunnel surgery for pain she had suffered in the inside of her wrists and her palms in the thumb area.<sup>1</sup> She stated she did not have numbness in her right hand or

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<sup>1</sup> The year of this surgery is unknown. At the April 2003 preliminary hearing, she said it could have been 8 years earlier. At the regular hearing, she was asked if the surgery was in 1993, and she said, "If that's what you have on the papers." (R.H. Trans. at 14). Dr. Fevurly's records indicate the surgery was in 1995. Claimant told Dr. Bieri that the surgery was 10 years before his June 2005 evaluation and told Dr. Ketchum it was 20 years preceding his June 2008 evaluation.

tingling in her fingers before the surgery, or after the surgery until the accident of November 6, 2002. She denied ever reporting to a doctor that she was having bilateral hand numbness before this accident. But her medical records indicate that on October 2, 2001, she complained to Dr. Chris Fevurly of bilateral hand numbness, and on January 3, 2002, she told a doctor at the Haskell Health Clinic (HHC) that her hands had been numb.

On November 8, 2002, claimant reported to Dr. Fevurly that she was injured on November 4, 2002, while trying to restrain a student.<sup>2</sup> Dr. Fevurly's report of that date indicates that claimant claimed she had pain in her proximal right forearm on the extensor surface but denied numbness or tingling of her hands or fingers and denied any pain in her wrist or distal forearm. Claimant says this report is inaccurate, as she did, in fact, tell Dr. Fevurly that she had numbness and tingling on this visit. She said she had a separate injury to her right shoulder on November 7, 2002, when she tried to pick up a child at work.

Claimant followed up with Dr. Fevurly on November 15, 2002, at which time she was complaining of pain in her right upper back, shoulder and right proximal forearm into the wrist area. On that date, she also complained of numbness and tingling in the median nerve of the right hand.

On November 26, claimant again saw Dr. Fevurly, at which time she told him that her right shoulder and upper back condition had resolved but her elbow, forearm and wrist symptoms had worsened. Dr. Fevurly's records also indicate that her boyfriend reported to him that claimant had a seizure 10 days earlier and that she had trauma to her right forearm when her arm became stuck behind a piece of furniture. Dr. Fevurly believed that it was likely the seizure had caused an acute aggravation of her preexisting strain/sprain to her wrist and elbow. Claimant testified, however, that her elbow, forearm and wrist were sore before the seizure and remained the same after the seizure.

Dr. Neal Lintecum saw claimant on May 8, 2003. She gave him a history of injury in November 2002. She complained of aching over her upper extremity in a non-focal pattern and said the pain radiated distally from her elbow. She also complained of tingling in the three central fingers of her right hand that had worsened over the last month. After examining her, Dr. Lintecum diagnosed her with right upper extremity discomfort of unclear cause. He referred her for nerve conduction studies. Those studies were performed by

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<sup>2</sup> Dr. Fevurly's records indicate claimant told him she was injured on November 4, 2002, and was reinjured on November 7, 2002. She told Dr. Peter Bieri that she was injured on November 4, 2002, while attempting to restrain a student. She told Dr. Mary Ann Hoffmann that she was injured on November 4, and November 6 or 7, 2002. When she saw Dr. Lynn Ketchum, she told him she was injured on November 6, 2002. She testified at the April 15, 2003, preliminary hearing that the November 4 date was incorrect and her date of injury was November 6, 2002, and that she was injured again on November 7, 2002, at which time she suffered a shoulder strain. Respondent admits that claimant was injured while restraining a child and further states that whether the accident occurred on November 4, 6 or 7 is irrelevant. See Respondent's Brief at 1 and 5 (filed March 18, 2009).

Dr. Paul Morte on May 28, 2003, and showed no evidence of nerve entrapment in claimant's right upper extremity. Dr. Lintecum saw claimant again on June 26, 2003, and performed another orthopedic examination. His diagnosis remained the same, and he has not seen claimant since. Dr. Lintecum testified that he could not give an opinion as to whether claimant's condition was related to her November 2002 accident because he could not find a cause for her pain.

Claimant was seen again by Dr. Fevurly in January 2004, when she reinjured her right wrist in an incident at work. He released her from treatment for that injury in February 2004. Claimant also saw Dr. Fevurly on January 20, 2005, at which time claimant told him she continued to have pain and tingling in the index, middle and ring fingers of her right hand. He diagnosed her with non-specific paresthesias into the right hand and chronic pain in her right hand, cause of both unknown, and released her from care.

On March 15, 2005, claimant quit her employment with respondent, and within a week went to work for Cottonwood Industries (Cottonwood), a business which supervises sheltered workshops and homes for mentally retarded adults. She said that the job at Cottonwood was more physical than she had been led to believe before taking the job. She said that when she first started working at Cottonwood she was required to do a lot of writing, which hurt her wrist. She also said that she was required to use a tape gun, which caused her wrist to swell. Claimant has had several accidents while working for Cottonwood, including one on April 26, 2007, when one of Cottonwood's consumers threw something and she was struck in the right arm. Claimant then jumped over a footstool, incurring low back pain. She testified that the incidents at Cottonwood were not very significant. Nevertheless, she has filed three claims for workers compensation benefits for injuries sustained while working at Cottonwood.

Dr. Mary Ann Hoffmann, an orthopedic surgeon, saw claimant on January 4, 2006, for an IME at the request of the ALJ. When claimant filled out the intake form, she indicated she wanted to be seen for her right hand and low back.<sup>3</sup> Claimant also told Dr. Hoffmann that her upper back bothered her, saying that lifting caused it to ache and go into spasms.<sup>4</sup> Claimant gave the following history of her injuries:

She states that she injured both [right hand and low back] in her first injury, which was between November 4th and November 6th or 7th of 2002. The patient states that she injured her forearm on November 4th while restraining a child who was actually a kindergarten student that was displaying a lot of physical aggression. She had scratches on her arm, elbow, and shoulder and then on the 7th she

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<sup>3</sup> Claimant is not making a claim for injuries to her low back in this claim.

<sup>4</sup> Although she has complained various times of complaints to her right upper back and right shoulder, possibly incurred in the lifting incident on November 7, 2002, her Application for Hearing does not claim injuries to her upper back from the incident of November 6, 2002.

reached down to pick up a fallen child and that started her having problems in her upper back and shoulder.<sup>5</sup>

Claimant told Dr. Hoffmann she previously had carpal tunnel release surgery, as well as surgery to remove cysts from both wrists. She told Dr. Hoffmann about the seizure she had shortly after the November 2002 injury. She told her she had increased pain as a result of the seizure and bruising along the ulnar side of the wrist but that the numbness she was having pre-dated the seizure and dated back to the injury. She told Dr. Hoffman that she reinjured her right arm in 2004 and underwent physical therapy, but nothing seemed to help much. She told Dr. Hoffmann that she quit her job with respondent and now worked for Cottonwood.

Claimant's chief complaints to her right upper extremity were weakness, dropping things from her right hand, shooting pains from her wrist to her elbow on the dorsum of her forearm, and tingling around her middle fingers. She said her fingers cramped up while writing, and writing seemed to aggravate her other symptoms. She also told Dr. Hoffmann about using a pallet jack and a tape gun at Cottonwood. Dr. Hoffmann noted: "Her new job aggravates her symptoms."<sup>6</sup>

Claimant complained of a pinching sensation and some weakness in the ulnar side of her wrist towards the side of the little finger. She had pain and stiffness with trying to bring her wrist up or down. Upon examination, Dr. Hoffmann found that the fingers on both claimant's hands were blue and cool to the touch. Claimant said this did not happen until after her injury. There was no swelling, fluid, erythema, induration or ecchymosis around the wrist. She had tenderness to palpation on both the ulnar and radial side of the wrist and in the mid-portion of the wrist in the mid-carpal area. She had a negative Allen's test, a positive Finkelstein's test, and a positive Tinel's sign. She had decreased light touch sensation in the fingers only. Review of wrist x-rays showed claimant's wrist had an ulnar minus configuration, meaning the ulna was shorter than the radius, which Dr. Hoffmann said can pre-dispose one to problems in the wrist. Results of the EMG and nerve conduction tests of claimant's right arm done by Dr. Morte on May 28, 2003, and January 17, 2005, were normal.

Examination of claimant's elbow revealed no effusion, erythema, induration, ecchymosis or increased warmth to touch. She had full extension compared to the other side. She could flex her elbow fully. She had no pain or limitation of pronation and supination. X-rays of her right elbow were normal.

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<sup>5</sup> Independent medical examination report of Dr. Mary Ann Hoffmann dated January 18, 2006 (filed Jan. 26, 2006) at 1.

<sup>6</sup> *Id.* at 2.

Dr. Hoffmann believed it was too early to give claimant an impairment rating. She believed claimant should have restrictions and thought she should be seen by a vascular surgeon. Dr. Hoffmann opined that all of claimant's complained-of problems were due to her injury in November 2002, except the low back, as she could find no documentation of treatment or evaluation of claimant for a low back injury related to the November 2002 accident.

Dr. Peter Bieri, an ear, nose and throat specialist who is board certified in disability evaluations, examined claimant on June 6, 2005, at the request of claimant's attorney. Claimant described an accident of November 4, 2002, wherein she was attempting to restrain a student and reported pain involving her right upper extremity, posterior shoulder and right neck. Claimant told him she had carpal tunnel surgery 10 years prior to her evaluation but that the numbness and tingling in the middle three fingers of her right hand were distinctly different than her previous carpal tunnel symptoms. Claimant did not tell him about the January 2004 accident when she reinjured her right wrist.

Upon examination, Dr. Bieri found claimant demonstrated tenderness of the cervicothoracic spine region with decreased active range of motion with brief palpable muscle spasm and guarding and radiation of pain into the posterior right shoulder. The shoulder was unremarkable, as was the right elbow. Active range of motion in both her right shoulder and right elbow was full and unrestricted. Claimant demonstrated two-point discrimination involving the tips of the middle three digits. Her ability to perform repetitive fine and gross motor movements was slightly impaired secondary to weakness and sensory change. Grip strength measured with JAMAR dynamometer with a maximum of 10.5 kilograms, approximately 25 pounds, on the dominant right as opposed to 28.0 kilograms on the left. Both Phalen's and Tinel's testing were normal. Claimant did not show any signs on those two tests of having median nerve entrapment at the level of the wrist. Her condition was stable at the time he saw her, and he believed she was at maximum medical improvement.

Using the *AMA Guides*,<sup>7</sup> Dr. Bieri rated claimant as having a 5 percent permanent partial impairment of the whole body for DRE cervicothoracic Category II for intermittent or continuous muscle guarding observed by a physician, nonuniform loss of range of motion, or non-verifiable radicular complaints. He rated her as having a 5 percent permanent partial impairment of the right upper extremity for residuals or weakness and distal paresthesias of the middle three digits based on the two-point discrimination and the subjective complaints, coupled with the history that she had no symptomatology after her carpal tunnel surgery. He said these problems were caused by claimant's accident of November 2002 based on claimant's denial of any history of numbness after her carpal

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<sup>7</sup> American Medical Association, *Guides to the Evaluation of Permanent Impairment* (4th ed.). All references are based upon the fourth edition of the *Guides* unless otherwise noted.

tunnel surgery in the 1990s up to the time of the incident and also that claimant gave him no history of any subsequent injury to that area.

Dr. Lynn Ketchum, who specializes in surgery of the hand, examined claimant on June 12, 2008. He had been requested by the ALJ to provide an opinion regarding what, if any, additional medical treatment was necessary to cure or relieve the effects of claimant's November 6, 2002, injury and also to render an opinion regarding whether claimant's work activities at respondent caused claimant's current symptoms in her right upper extremity or if the symptoms were the result of her work with her subsequent employer.

Claimant told Dr. Ketchum she injured her right upper extremity on November 6, 2002, while restraining an autistic child. In the process of trying to restrain the child, her right arm was twisted, and she felt immediate pain. She told him that the next day she had numbness in her right index, middle and ring fingers. Claimant told Dr. Ketchum that she had cysts removed from both her wrists as well as carpal tunnel release 20 years earlier, and she had no numbness in her right hand until the accident on November 6, 2002. She said she has continued to have numbness in that hand since.

On examination, claimant had weakness of the right upper extremity with a grip strength of 57 pounds on the dominant right compared to 70 pounds on the left. Range of motion in the right wrist was decreased. Two point discrimination was abnormal. She had pain over the flexor carpi radialis tunnel. Stress x-ray views showed widening of the distal radioulnar joint and widening of the scapholunate joint. Dr. Ketchum could not determine if that condition existed before the presumed injury but noted that claimant said she did not have symptoms in her right wrist before the injury and has continued to have symptoms ever since. Also, claimant's widening of the joints was compatible with the injury she sustained on November 6, 2002. Dr. Ketchum performed nerve conduction studies of the median nerve of the right wrist on June 12, 2008, which showed evidence of mild right carpal tunnel syndrome.

In Dr. Ketchum's opinion, claimant had an aggravation of a preexisting carpal tunnel condition, and her problems are related to her injury on November 6, 2002. He did not recommend surgery but suggested she wear an elastic gauntlet on her right wrist. He gave her restrictions of no lifting over three pounds with the right upper extremity and no repetitive gripping. Although he was asked for an opinion as to whether claimant's problems were caused by her work at respondent or Cottonwood, his report does not mention her job duties or injuries sustained at Cottonwood. Further, although he was not asked to provide an impairment rating, he indicated that based on the *AMA Guides*, he rated claimant as having a 25 percent permanent partial impairment of the right upper extremity.

At the regular hearing, claimant admitted she did not tell Dr. Ketchum about her seizure a few weeks after the injury. She did not tell him about the incident in January

2004 when she reinjured her right wrist. She admits she told him she had no numbness, tingling or pain in her right hand before the injury in November 2002. She did not tell him she had numbness in her hands in January 2002. Claimant testified that she told Dr. Ketchum that she had been attacked at work in April 2007, when working at Cottonwood, and was struck in the arm. This incident, however, was not mentioned in his report. She said she did not tell Dr. Ketchum that she was having trouble with her wrists in February 2007 because she had been doing weight training and push ups as was noted in records from HHC.<sup>8</sup>

### PRINCIPLES OF LAW

K.S.A. 2008 Supp. 44-501(a) states in part: "In proceedings under the workers compensation act, the burden of proof shall be on the claimant to establish the claimant's right to an award of compensation and to prove the various conditions on which the claimant's right depends."

K.S.A. 2008 Supp. 44-508(g) defines burden of proof as follows: "Burden of proof means the burden of a party to persuade the trier of facts by a preponderance of the credible evidence that such party's position on an issue is more probably true than not true on the basis of the whole record."

K.S.A. 44-519 states:

Except in preliminary hearings conducted under K.S.A. 44-534a and amendments thereto, no report of any examination of any employee by a health care provider, as provided for in the workers compensation act and no certificate issued or given by the health care provider making such examination, shall be competent evidence in any proceeding for the determining or collection of compensation unless supported by the testimony of such health care provider, if this testimony is admissible, and shall not be competent evidence in any case where testimony of such health care provider is not admissible.

K.S.A. 44-510e states in part:

If the employer and the employee are unable to agree upon the employee's functional impairment and if at least two medical opinions based on competent medical evidence disagree as to the percentage of functional impairment, such matter may be referred by the administrative law judge to an independent health care provider who shall be selected by the administrative law judge from a list of

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<sup>8</sup> Although the medical records of HHC indicate on February 16, 2007, claimant reported hand and wrist problems with physical activity, mainly weight training and floor work, including push-ups, she testified that she never reported such a problem to the doctors at HHC and that she did not perform push-ups because of her wrist problems.



health care providers maintained by the director. The health care provider selected by the director pursuant to this section shall issue an opinion regarding the employee's functional impairment which shall be considered by the administrative law judge in making the final determination.

K.S.A. 44-516 states:

In case of a dispute as to the injury, the director, in the director's discretion, or upon request of either party, may employ one or more neutral health care providers, not exceeding three in number, who shall be of good standing and ability. The health care providers shall make such examinations of the injured employee as the director may direct. The report of any such health care provider shall be considered by the administrative law judge in making the final determination.

K.A.R. 51-9-6 states in part: "If a neutral physician is appointed, the written report of that neutral physician shall be made a part of the record of hearing. Either party may cross examine each neutral physician so employed."

### ANALYSIS

On November 16, 2005, the ALJ entered an Order Referring Claimant for Independent Medical Evaluation by Dr. Hoffmann. In that order, the ALJ specifically requested an

evaluation and disability rating regarding an alleged work-related injury sustained by claimant allegedly with this respondent, and recommendations regarding what future medical treatment is appropriate, if any. Restrictions are to be imposed and opinions concerning apportionment of any pre-existing impairment of the affected body parts, together with opinions concerning loss of task-performing ability, if any, are to be given as appropriate.<sup>9</sup>

In her report of January 18, 2006, Dr. Hoffmann said it was premature to give claimant a permanent impairment rating. She issued restrictions and recommended claimant be evaluated by a vascular surgeon. She related claimant's upper extremity injuries to her employment but not claimant's low back injury because she had no documentation for that injury.

The ALJ entered another Order Referring Claimant for Independent Medical Evaluation on November 7, 2007. This IME was to be performed by Dr. Ketchum. The doctor was asked to render his opinion as to:

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<sup>9</sup> ALJ Order Referring Claimant for Independent Medical Evaluation (Nov. 16, 2005) at 2.

(1) What, if any, additional medical treatment is necessary to cure and relieve the effects of claimant's 11/6/02 work related injury. (2) The doctor is also asked to render an opinion regarding whether claimant's work activities with the respondent USD #497 caused claimant's current symptoms in her right upper extremity or whether they were the result, in whole or in part, from her work with a subsequent employer.

Respondent contends, *inter alia*, that the IME reports of Drs. Ketchum and Hoffmann should not be allowed under K.S.A. 44-516 and K.S.A. 44-519 because there was no dispute as to claimant's injury. However, respondent made the nature and extent of claimant's injury an issue at the regular hearing. Furthermore, at the April 15, 2003, preliminary hearing, respondent refused to provide medical treatment because respondent contended claimant's injuries were not work related. The ALJ overruled respondent's objection to the admission of the IME reports for the following reasons:

The examinations were ordered under K.S.A. 44-510e and/or K.S.A. 44-516. There is no language in either statute which limits examinations based upon whether a whole body or scheduled injury is alleged. In this case, Dr. Bieri had found a combination whole body and scheduled injury and Dr. Fevurly had found there was no functional impairment. In addition, the Board order of June 17, 2003 notes, "First, respondent argues claimant has failed to prove that her carpal tunnel syndrome symptoms are related to the November 6, 2002 accident." The respondent continued to raise this issue throughout the litigation process and the Court requested Dr. Ketchum to address the same in his IME. The disagreement over this issue was clearly a dispute "as to the injury." See K.S.A. 44-516.<sup>10</sup>

Obviously, the nature, extent and causation of claimant's injuries, specifically what injuries are due to the accident at work, have been issues all along in this claim. Claimant alleged both general body (neck) and scheduled injuries (shoulder, arm and forearm). Although respondent admits that claimant suffered an accident at work on November 6, 2002, it disputes any permanency from that accident or that claimant's current injuries are work related.<sup>11</sup> The Board finds that the IME reports of Drs. Hoffmann and Ketchum are part of the record and shall be considered. However, because the ALJ did not request that Dr. Ketchum address the question of permanent impairment and provide a rating, the permanent impairment rating opinion given by Dr. Ketchum in his IME report will not be considered.

The ALJ found Dr. Ketchum's opinion to be the most credible and persuasive. Dr. Ketchum, who was one of the neutral examiners, did not examine claimant for quite some

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<sup>10</sup> ALJ's Award (Feb. 2, 2009), footnote 1 at 1-2.

<sup>11</sup> As noted, respondent further admits that the accident arose out of and in the course of her employment while claimant was restraining a child and that whether the accident occurred on November 4, 6 or 7 is irrelevant.

time after her accident date with respondent. Nevertheless, the symptoms claimant described to Dr. Ketchum were consistent with the symptoms she described early on after her accident and while she was still employed with respondent. Claimant had persistent tingling in her three middle fingers of her right hand (index, middle and ring fingers) and pain in her right wrist. Dr. Ketchum diagnosed mild carpal tunnel syndrome and widening of the distal radioulnar and scapholunate joints. He recommended restrictions and support for the wrist. He also considered claimant's condition to be permanent. Dr. Bieri noted the same or similar symptoms and gave a rating opinion of 5 permanent partial impairment of the right upper extremity. The Board finds Dr. Bieri's opinion to be persuasive and modifies the ALJ's award of a 25 percent permanent impairment to the forearm to 5 percent of the forearm. The Board declines to award claimant a permanent impairment for her neck, as that condition appeared to no longer be a problem by the time claimant was examined by Dr. Ketchum.

#### **CONCLUSION**

(1) Claimant suffered a 5 percent loss of use to her right upper extremity at the level of the forearm.

(2) The IME reports of Drs. Hoffmann and Ketchum are competent evidence, and their opinions shall be considered, except for the percentage of permanent impairment of function rating opinion given by Dr. Ketchum.

#### **AWARD**

**WHEREFORE**, it is the finding, decision and order of the Board that the Award of Administrative Law Judge Brad E. Avery dated February 2, 2009, is modified to find that claimant has a 5 percent permanent partial impairment to her right upper extremity at the level of the forearm.

Claimant is entitled to 10 weeks of permanent partial disability compensation, at the rate of \$155.12 per week, in the amount of \$1,551.20 for a 5 percent loss of use of the forearm, making a total award of \$1,551.20.

**IT IS SO ORDERED.**

Dated this \_\_\_\_\_ day of June, 2009.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

c:     Stephanie J. Wilson, Attorney for Claimant  
       Roy T. Artman, Former Attorney for Claimant  
       Kip A. Kubin, Attorney for Respondent  
       Brad E. Avery, Administrative Law Judge